

MINUTES
CLAY COUNTY PLANNING COMMISSION
7:00 P.M., TUESDAY, JULY 21, 2015
MEETING ROOM B - THIRD FLOOR COURTHOUSE

Members Present: Mark Klevgaard, Tom Jensen, Andrea Koczur, Paul Krabbenhoft, William Davis, Amos Baer, Mike Hulett, Jenny Mongeau,

Members Absent: Tim Brendemuhl, Dan Langseth, David Heng

Others Present: Tim Magnusson, Colleen Eck, Jenny Samarzja, Kat Ihle, Steve Aakre, Bryan Niemi, Mark Ciernia, Max Milinkovich, Harley Green, Cornelius Wipf, Ron Klinker, Dan Sommerfeld, Dean Engebretson, Kirk Rosenberger, Stephanie Reynolds, Beth Harries, Shannon Thompson

Chair Paul Krabbenhoft called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

On motion by Tom Jensen, seconded by Amos Baer, and unanimously carried, the Commission approved the agenda.

APPROVAL OF MINUTES

On motion by Amos Baer, seconded by Andrea Koczur, and unanimously carried, the Commission approved the minutes from June 16, 2015.

CITIZENS TO BE HEARD

There were none.

KNIFE RIVER – INTERIM USE REQUEST – AGGREGATE MINE

The applicant is seeking approval of an Interim Use Permit to allow for the development of a 38-acre aggregate mining operation. The affected property is located in the West Half NW Quarter and NW Quarter SW Quarter, Section 21, T142N, R45W (Hagen Township). Said property is located in the Agricultural General (AG) and Resource Protection – Aggregate (RP-Agg) Zoning Districts.

On motion by Andrea Koczur, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed aerial views of the proposed site and the haul route, which is in an area of the County that is heavily mined. The current land use at this site is agricultural and there are no buildings located on the site. The applicant intends to lease a 115-acre parcel and commence mining on approximately 38 acres. When mining is completed the site would be reclaimed back to agricultural use. The property provides frontage on 180 Ave N and

190 St N and is located about 1.5 miles north of the intersection of 190 St N and 160 Ave N (County Rd 34). Access to the site will be off 190 St N and the haul road would be south on 190 St N to 160 Ave N. There are several homes located along 190 St N. The applicant would need to establish dust control measures to minimize any dust impact from hauling. The applicant must maintain a 100-foot setback from any property line; and 200 feet from the ROW line of any public road. It appears that those setbacks could be met. The site must also maintain a 500-foot from the residence itself. As proposed, the facility would meet or exceed those required setbacks. The site will be mined from south to north as described in the application. Operations will include the use of dozers and a front-end loader to feed material into the processing equipment. Such equipment will consist of aggregate crushing equipment, screens, feeders and conveyors. The applicant is requesting to operate year round (weather dependent), seven days a week, and 24 hours a day. The elevation drops down from east to west across the site. The applicant plans to mine from the middle of the site and then restore it with sloped edges.

Magnusson noted that the property owner to the north of the proposed mining site has concerns about another mining pit being permitted by his property, and has an attorney here on his behalf. Magnusson added that one of the other sites is fairly well mined out and should be ready to be reclaimed. The mine adjacent to this site is being operated by another division of Knife River. The two closest mines are permitted to operate from April thru December, with hours of 6:00 a.m. to 8:00 p.m., Monday thru Saturday. Maintenance is allowed before or after those hours in one of the pits. Magnusson stated that banking up soil along the north side of this site should create somewhat of a sound barrier for the property owner to the north. The proposed pit would be the largest of the three pits in the area. The two closest mines are to the east, and a third mine is to the south. All four pits are in the same section of land. Most of the pits in Hagen Township are under 40 acres.

The applicant, Ron Klinker, stated that he is representing Knife River Materials - ND. The Knife River pit adjacent to the proposed site is being operated by the Bemidji division. The material from that pit is strictly for road paving only. The Fargo-Moorhead division of Knife River is for redi-mix concrete and retail aggregate. Klinker noted that with a setback of 600 feet, the operation will not exceed the noise standards. He added that because of the residents in the area, he would be okay with hours of operation from 6:00 a.m. to 8:00 p.m. They would expect to operate in the pit from May thru October, and any operations outside those months would depend of how much stockpile is onsite.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

Mark Ciernia stated that he lives in Hagen Township and is a township official as well. He noted that five years ago another mine was permitted, and he brought a copy of that permit with him tonight. He had a list of suggestions which started with "know the rules." He described the first day of hauling last spring at one pit like being "truck Nascar." There were lots of trucks that were speeding, there was one truck on its side in the ditch, and a couple mailboxes destroyed. The activity was halted and corrected after a phone call was made. Last month, he got phone calls from other Hagen Township residents about operations going beyond the allotted hours. There were reports of hauling as early as 5 a.m. and as late as 10 p.m. Ciernia suggested that the operators have some type of annual review of the rules/conditions and training for the drivers. Maintenance items before and after hours should not be intrusive activities. Dust control was

also mentioned. It usually includes using magnesium chloride and having a water truck onsite. Ciernia noted that it should not be the neighbors' responsibility to see that these things are being done. Last year there was one fatality when a vehicle slammed into a gravel truck; and another incident involved a woman's horse that she was riding being spooked by air brakes on a gravel truck. Enforcement was the last issue addressed. A permit can be rescinded if conditions are not followed, but that it takes weeks for that process to take place. Ciernia noted that Hagen Township would be willing to divert some of its gravel tax dollars toward having the Sheriff's deputies routinely circulate through the gravel hauling areas, maybe even at closing time. It was estimated that there are 7 to ten gravel pits currently operating in Hagen Township.

Attorney Steve Aakre stated that he is representing Bryan Niemi who lives just north of the mining area. When Niemi built his home, none of these pits were operating. The pit to the east of the proposed site is just 1200 feet from his home, and he gets a lot of dust from the southeast blowing through his yard. This pit would be straight south, and would lead to more dust for Niemi. The dust aggravates his asthma that began about five years ago. Pictures taken of 190th Street in June of 2008 and May of 2009 were presented for the Planning Commission to review. There is a lot of wash-boarding on the roads right now which affects safety and property values. Aakre noted that none of those pits have been closed yet, and another pit would increase the amount of truck traffic. Running 40 to 50 trucks an hour is not unusual when they start hauling. Magnusson noted that 10-yard trucks and belly trucks are usually used for gravel. The end date for each Interim Use Permit is addressed individually and can be anywhere from 5 to 20 years for gravel pits. When asked if the highway department had ever been notified about the roads, Aakre stated that they had been emailed regarding the complaints about the roads.

In response to questions, the applicant noted that the mining will definitely be phased, based on what type of work is coming up that construction season. He estimated that this pit would be mined for approximately five years.

Magnusson stated that the aggregate tax that is collected in Clay County is split using the following formula: 60% to the Highway Department; 30% to the township for road maintenance; and 10% to an abandoned pit fund. Generally a portion of the pit is reclaimed in phased mining, but they need to keep a large enough area open to be able to operate, and if the overburden is used for a sound barrier it needs material to stay in place to keep the sound barrier. There is also a bond required toward reclamation. Further discussion ensued about enforcement of hours, dust control responsibilities and hours of operation.

On motion by Mike Hulett, seconded by Bill Davis, and unanimously carried, the Planning Commission closed the public hearing.

Mike Hulett asked if these types of requests are ever denied and what basis would be used for a denial. Magnusson noted that there may have been one denial in the past. The findings of fact need to be reviewed for each request. Krabbenhoft added that they thrive for consistency and there is a matter of trust when a permit is issued. Attorney Samarzja added that discretion must be used when reviewing applications and listening to public testimony. Hulett noted that there may only be two deputies patrolling the entire county in the evenings but citations can be issued.

The Findings of Fact for Conditional Use Permits were read by Chair Krabbenhoft and reviewed

by the Planning Commissioners. Items 1, 2, 5, and 6 were found to be applicable findings for this requested gravel mining operation.

On motion by Amos Baer, seconded by Andrea Koczur, and carried with one nay vote (Mike Hulett), the Planning Commission approved Knife River's request for an Interim Use Permit to allow the development of a 38-acre aggregate mining operation in the W¹/₂ NW ¹/₄ and NW¹/₄ SW¹/₄ Section 21, Hagen Twp with the following conditions:

- 1. Permit shall expire on December 31, 2020**
- 2. Operate within provisions of the Clay County Land Development Ordinance.**
- 3. Operator shall control dust and shall apply calcium or magnesium chloride annually (at a minimum) in front of all residences located along the haul route.**
- 4. Months/Days/Hours of operation are as follows: April through November, Monday through Saturday, 6:00 a.m. to 8:00 p.m., with one hour allowed before and after hours for maintenance activities only.**
- 5. Operator shall provide proof of NPDES/SDS, Storm Water Management, and Air Quality Permits, as required, to the Planning Office and shall be in compliance with any and all local/state/federal regulating agencies prior to commencing mining operations.**
- 6. Operator shall contact Clay SWCD and have wetland evaluation completed before any mining commences. Operations must comply with all provisions of Wetlands Conservation Act.**
- 7. A maximum of 38 acres approved for mining operations (excavation, screening, crushing, stockpiling, etc.) as shown on attached aerial photo. If additional acres are to be opened in the future an Environmental Assessment Worksheet and new or amended IUP would be required.**
- 8. Operator shall post a reclamation bond of \$1,000 per acre.**
- 9. Operator is to reclaim mined areas to native prairie grasses or to landowner's specification upon reclamation.**
- 10. Operator shall provide parking, screening, lighting, drainage, and portable sewer facilities consistent with County regulations as determined by the Planning Department and County Health Department.**
- 11. Operator is to present a detailed mining plan to Planning Office indicating exact area to be mined, current topography, final topography, phases of mining operation, equipment locations, locations of hazardous material storage and sanitary facilities and stormwater management plan prior to commencing any operations at the site.**
- 12. Operator is to establish a berm on the north side of the mining site to minimize sound and site for the residence to the north.**

SPRING PRAIRIE HUTTERIAN BRETHREN, INC. – REQUEST FOR CONDITIONAL USE PERMIT – FEEDLOT EXPANSION

The applicant is seeking approval of a Conditional Use Permit to allow the expansion of an existing dairy barn and the construction of an additional cattle barn on their existing feedlot. The facilities would be located in the East Half, Section 14, T140N, R46W (Spring Prairie Township). Said property is located in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) Zoning Districts.

On motion by Jenny Mongeau, seconded by Amos Baer, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, displayed aerial views of the Hutterite property. This request is for a 120' x 120' addition to an existing dairy barn and construction of a 60' x 200' dry heifer barn. The dairy barn expansion will make room for an additional 140 head of dairy cows (196 Animal Units by County standards). The other new barn will house an additional 190 heifers (190 AU by County standards). This would be a total of 386 more AUs by County standards, and would require a Conditional Use Permit (CUP). The locations of both proposed facilities places them no closer to adjacent properties and residences than other existing barns. The total number of AUs (by State standards) will increase from the current 2,525.7 AUs to 2,850 AUs. The existing feedlot facility has an NPDES permit that is overseen by Minnesota Pollution Control Agency. The existing feedlot facility and the proposed expansions meet or exceed Clay County's minimum setback requirements. The nearest residences, other than those of the owner/operator and family are located over 2,500 feet away from the present and proposed barns. The County ordinance requires feedlots with 250 AUs to comply with the Animal Feedlot provisions as listed in the ordinance. MPCA approval has been completed, and the County needs to concur with the MPCA for this number of animal units.

The applicant, Cornelius Wipf, introduced himself as Joe Wipf's son and new Secretary/Treasurer for Spring Prairie Colony. He noted that Magnusson explained the request well. He noted that there will be new manure facilities onsite as well.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

On motion by Mike Hulett, seconded by Bill Davis, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact for Conditional Use Permits were read by Chair Krabbenhoft and no items needed to be further addressed.

On motion by Bill Davis, seconded by Amos Baer, and unanimously carried, the Planning Commission approved the request from Spring Prairie Hutterian Brethren, Inc. for a Conditional Use Permit for a feedlot expansion of a dairy barn and the construction of an additional cattle barn at an existing feedlot located in the E½ Section 14, Spring Prairie Twp with the following conditions:

- 1) CUP is for a facility containing up to 2,850 AU (State #), if AU numbers are ever increased it would require an amendment to the CUP;
- 2) The facility shall maintain a current NPDES Permit for operation of a feedlot from the MPCA;
- 3) The facility shall operate in accordance with Clay County Feedlot Standards.

FULL CIRCLE ORGANIC RECYCLING, LLC - REQUEST FOR INTERIM USE PERMIT –YARD WASTE COMPOSTING SITE

The applicant is seeking an Interim Use Permit to establish and operate a yard waste composting facility. Said facility would utilize approximately 20 acres of land located in the South Half of

the North Half, Section 19, T139N, R45W (Hawley Township). Said property is located in the Agricultural General (AG) and Resource Protection-Aggregate (RP-Agg) Zoning Districts.

On motion by Tom Jensen, seconded by Jenny Mongeau, and unanimously carried, the Planning Commission opened the public hearing.

Tim Magnusson, Planning Director, stated that the proposed use would actually be on 12 to 15 acres of this 86-acre site. The property is owned by Clay County and composting operations would take place under a lease agreement with the applicant. An asphalt pad would be placed on a portion of the site for yard waste materials (leaves and grass) to be deposited. The composting piles would be in windrows oriented north and south. As the composting process progresses, the windrows would be watered and mechanically turned to facilitate the composting process. The internal temperature of the windrows would be taken periodically to ensure complete composting. The final compost product would be sold or given away to residents and farmers to be used as a soil amendment. The site would be accessed through the existing municipal landfill entrance off 190th St S. and no additional access would be required. Equipment to be used onsite would include a front-end loader/skid steer, a trommel screen to separate plastic bags from the yard waste and a scarab for turning the compost piles.

The facility is expected to operate from May 1 through Thanksgiving each year. The proposed days of operation are Monday thru Saturday, with hours from noon thru 5:00 p.m., May thru July; and 8:00 a.m. to 4:30 p.m., August thru November. The applicant did not indicate how he would mitigate any potential conflicts with nearby land uses such as residential. There are two residences located within 1,400 feet of the proposed site; one to the northeast at 1,340 feet and one to the southeast at 1,100 feet. Magnusson noted that the wind should not be an issue. He added that there are periodic odors if the compost goes anaerobic, but there should not be any real offensive odors if the compost is well maintained. He has taken no calls from residences about the proposal. Plastic bags would be the only potential litter source. Magnusson noted that the gate at the landfill entrance is only open two Saturday mornings a month. He mentioned that Weaver have cattle on the property to the northwest of the site. If there is a northwest wind, there could be an issue for the residence to the southeast. The compost area is further from that residence than the landfill.

Amos Baer asked if the Moorhead compost site would be discontinued and if Hawley Township has addressed this proposal yet. Magnusson was not sure if the applicant has approached the township, but noted that this operation has been discussed at the Solid Waste Advisory Committee meeting with at least one Hawley Township official present.

The applicant, Max Milinkovich, stated that the grass clippings are the nitrogen for the compost so they do not anticipate using any manure. There will be municipal solid waste containers onsite for plastic bags. They will accept yard waste only. The temperature of the windrows will need to reach 130 to 140 degrees. He has already received a Permit by Rule for the operation from the State of Minnesota. That permit suggests that the material is turned at least twice a year. Milinkovich noted at a minimum they would turn it every quarter, and once or twice a month during active times. They would accept leaves, grass and brush. He would be okay with having the same hours as the landfill with a 4:30 closing time during the week. He was informed that the landfill is also open on the first and third Saturdays of the month from 8 a.m. to noon. This site is

on the backside of the hill and is the most ideal site for this type of operation. His checklists for best practices have been completed. The company currently has seven sites throughout the state. Yard waste is not a governed material and the counties do not want it to go in the ditches, etc. When asked, Milinkovich noted that ideally residents who drop off material should bag it and dispose of the bags in a container that will be provided or take them with them. They will provide some assistance at the site, too. Depending on the material, it could take three to seven days to get to the desired temperature. There would be no liquid waste from the compost. The ultimate plan is to contract with the City of Moorhead, too. Fall would be the busiest time of year with fall leaves. Currently, the proposed site is a grass field that he would lease. He has not spoken to the township yet.

Chair Krabbenhoft asked if there was anyone who wanted to speak for or against the proposal.

Rick Weaver (area resident and township official) stated that when staff pick litter from this site they will be walking this property. He added that the County hasn't solved their litter problem out there in 40 years. He noted that this site is condemned land and the compost would add to the odor problem out there. He also does not consider this use to be a solid waste purpose, and the applicant has not applied to Hawley Township yet. He needs permits from both the county and township to operate.

Kirk Rosenberger, Solid Waste Director, stated that the County initially looked at three potential sites for this operation. They attended a "County-owned Property Committee" meeting with staff from Clay County. After all three sites were discussed, this location was chosen as the best site. MPCA wants counties to increase the amount of recycling, and that is what is being done, and it is considered solid waste. The site is fairly remote and already has access using the landfill entrance. Jenny Mongeau added that there would be supervision at the site and the gate would be closed before and after hours. Rosenberger commented that it is a good, positive site, and the County has worked hard to control litter with fencing and additional staffing and closing during times of high wind. As far as odor, he felt they also do a great job out there. He noted that manure in the area also has an odor. The company has a very good state-wide reputation, and this operation would be a positive move for the County. MPCA is impressed with them and they provide an excellent program to the community. Steve Moore, Moorhead Public Works Director, has also met with the company and may be contracting with them. There is another potential use at the current Moorhead Compost Site. They have had some litter issues at that site, but it's difficult to address the odor at the site because there are other odor sources close by. There would be 200 trees planted along the east boundary of the proposed site to help with litter control. The Moorhead site is operated by Moorhead Public Works and the compost is offered to residents at no charge.

Rosenberger provided information on other new solid waste projects in the County. He noted that the County Board recently approved an annual \$5 thousand host site fee to Hawley Township because of the landfill being located there.

On motion by Tom Jensen, seconded by Andrea Koczur, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order for Conditional Use Permits were read and reviewed and item

five was found to be applicable because of the potential for litter and odor. Krabbenhoft noted that the landfill hours should dictate the hours for the compost site.

There was a motion made by Amos Baer, and seconded by Bill Davis to table the decision on the request until after the township has heard the request. After further discussion on the matter, Davis withdrew his second and the motion died.

Jenny Samarzja noted that the Planning Commission should be addressing the request based on the County ordinance, and that the township addressing the request is a separate matter.

On motion by Mike Hulett, seconded by Andrea Koczur, and carried with one nay vote (Amos Baer), the Planning Commission approved the request from Full Circle Organic Recycling, LLC. for an Interim Use Permit to establish and operate a yard waste composting facility on 20 acres of land located in the S ½ N ½ Section 19, Hawley Twp. with the following conditions:

- 1) All operations must meet provisions of the Clay County Land Development Ordinance;**
- 2) Facility must obtain a MN Permit by Rule for a recycling facility;**
- 3) Compliance with any other Federal/State/Local regulations that may apply to the use;**
- 4) Months and days of operation: May 1 thru November 30, Monday thru Saturday.**
- 5) Hours of operation allowed during landfill hours: 8:00 a.m. until 4:30 p.m., Monday thru Friday, and the 8 a.m. until noon the first and third Saturday of the month.**
- 6) Collection of any litter generated by the operation is the responsibility of the operator;**
- 7) Permit shall expire 10 years from date of issuance.**

Magnusson reminded the applicant that he also needs approval from Hawley Township before he can move forward with this proposal.

On motion by Andrea Koczur, and seconded by Tom Jensen, the meeting was adjourned at 9:20 p.m.

Andrea Koczur, Planning Commission Secretary